796

SUPREME COURT OF THE UNITED STATES.

No. 135.

THE UNITED STATES, APPELLANTS,

vs.

GABRIEL RUIZ ET AL.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

INDEX.

	Original.	Print.
Proceedings before commissioners	1	1
Petition of claimants	3	2
Deposition of J. M. Covarrubias	5	3
Do. N. A. Den	6	4
Do. Henry Carnes	8	5
Do. Antonio Carrillo	9	6
Document annexed to deposition of Den	10	6
Map	12	7
Exhibit B	17	10
Espediente	22	13
Map	28	16
Translation of espediente	31	17
Testimony	37	21
Opinion of commissioners	49	28
Decree of commissioners	52	30
Certificate of secretary	53	31
Certificate of clerk district court	54	31
Proceedings of district court	55	32
Notice of appeal	57	33
Petition for review of U. S. attorney	57	33
Answer	64	38
Motion to take further testimony	67	40
Notice of hearing by U. S.	67	40
Decree of district court	68	40
Appeal granted	69	41
Clerk's certificate	70	41

GIDEON, Print.

Transcript of the proceedings in case No. 430—*Gabriel Ruiz et al., claimants,* vs. *The United States, defendant—for the place named "Calleguas."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this first day of November, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Gabriel Ruiz et al., for the place named "Calleguas," was presented and ordered to be filed and docketed with No. 430, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *November* 13*th*, 1852.

In case No. 430, Gabriel Ruiz et al., for the place named "Calleguas," the deposition of José Antonio Carrillo, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(Vide page 9 of this Transcript.)

SAN FRANCISCO, *Jan'y* 15*th*, 1853.

In the same case, the deposition of Nicholas A. Den, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with document marked H. H, No. 1, annexed thereto, was filed.

(Vide page 6 of this Transcript.)

JANUARY 15TH, 1853.

In the same case, the deposition of José Maria Covarrubias, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, with document marked H. J. T., annexed thereto, was filed.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *Jan'y* 20*th*, 1853.

In the same case, the deposition of Henry Carnes, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 8 of this Transcript.)

SAN FRANCISCO, *August 30th*, 1853.

Case No. 430 called, argued, submitted, and taken under advisement by the board.

SAN FRANCISCO, *Nov. 4th*, 1853.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board confirming the claim.

(Vide page 47 of this Transcript.)

To the Hon. the Board of U. S. Commissioners appointed to settle private land claims in California.

The petition of Gabriel Ruiz respectfully showeth: That he and other heirs of José Pedro Ruiz, deceased, whose names are hereinafter specified, are claimants of and for the tract of land and ranch known by the name of Calleguas, situated in the county of Santa Barbara, in the State of California, bounded by the ranchos of Las Posas, Conejo, Simi, and the limits of the establishment of San Buenaventura, such as they were at the date of the original grant for said Calleguas. And for a more particular description of said rancho and the quantity of land it contains, your petitioner refers to the plan or map, and the metes and bounds assigned in the minute-roll of juridical possession thereof, copies of which are herewith filed. That the said rancho was granted to said José Pedro Ruiz on or about the 10th of May, 1837, by Juan B. Alvarado, then governor of California, by virtue of the laws and regulations then in force, and the customs of the country affecting grants of land in California. That the said grant to Pedro Ruiz was, on the 20th of May, 1837, approved by the deputation or assembly. That on or about the 9th of November, 1839, said Pedro Ruiz petitioned the proper judicial officer to give him possession of said land, and that juridical possession was accordingly given, as by reference to the minutes of proceedings thereon, copies of which are herewith filed, will more fully appear. That in or about the month of February, 1849, the said José Pedro Ruiz departed this life without leaving any will or testament that was ever admitted to probate, and without making any testamentary or other disposition of the said Rancho Calleguas, and that he left him surviving Maria Ignacio Lugo de Ruiz, his sons Carlos Ruiz, Gabriel Ruiz, your petitioner, Geronimo Ruiz, José Antonio Ruiz, Baltazar Ruiz, Ilareon Ruiz and José Antonio Ruiz, and his daughters Bernarda Ruiz, Alcarea Ruiz, Caledonia Ruiz and Diagracia Ruiz; the following of his deceased daughter Petra Ruiz, viz: Guadalupe, Soledad, and José Arellanes. The following issue of his deceased daughter Presentacion, viz: Maria Los Angeles and Chepeta Pico; which last mentioned Chepeta has since died, leaving her surviving, her husband, Ignacio Esquerra, and two daughters, the issue of her marriage with him, viz: Josefa and Blandina. And your petitioner further shows, that since the death of the said José Pedro Ruiz, the said Diagracia, one of his daughters above mentioned, died intestate,

seized of her proportional undivided interest in said rancho, and left her surviving her husband, Esteban Ortega, and the following issue of her marriage, viz: Francisca José Dolores, Refugio, Prudencia, Maria de los Angeles, José Ramon, José del Carmen, Sebastian Ortega.

Your petitioner further shows, that the said rancho has never been divided or partitioned among the said several heirs of José Pedro Ruiz, and that the same is still *and* possessed in common by the said widow and the other heirs at law of said José Pedro Ruiz, whose names are above specified, proportionably and according to the laws regulating descents and distributions of real estate in California.

And your petitioner further shows, that the said rancho of Calleguas has been in actual and peaceable possession of the said José Pedro Ruiz and his said heirs from the date of said grant to the present time; that it has not been surveyed by the U. S. surveyor general for California, and that there is no conflicting claim thereto known to your petitioner.

The evidence on which your petitioner relies consists of the records of this grant in the office of the surveyor general, certified copies of which your petitioner prays leave to file, as parts of this petition, as soon as the same can be procured; original papers and maps in the possession of your petitioner, ready to be produced and proved, and of which copies are herewith filed as parts of this petition, and the testimony of witnesses to be produced before your honorable board.

Respectfully submitted for such action as the justice and nature of the claim may require.

E. O. CROSBY,
Of Counsel for Claimant.

Filed in office, Nov. 15, 1852.

GEO. FISHER, *Sec'y.*

Deposition of José Maria Covarrubias.

SAN FRANCISCO, *Jan'y 15th*, 1853.

On this day, before me, Com'r Harry J. Thornton, came José Maria Covarrubias, a witness in behalf of the claimants, Gabriel Ruiz et al., petition No. 430, and was duly sworn, his evidence being interpreted by the secretary.

Questions by the Complainants.

Question 1st. What is your name, age, and place of residence?

Answer. My name is José Maria Covarrubias; my age is forty-four, and my residence is Santa Barbara, California.

Question 2d. Are you acquainted with the handwriting of Antonio F. Coronel, Juan de Dios Padilla, Felipe Valenzuela, John Temple, Guillermo Cota, Vicente Sanchez, José Antonio Carrillo; and if so, look upon the document now here shown to you, and marked as exhibit No. 1 and filed herewith, and say whether the names of the persons above named, wherever they occur in and upon the said document, are the genuine signatures of those persons?

Answer. I am well acquainted with the handwriting of the persons named in the above interrogatory, having seen them write, and state that the handwriting of each of them, where it occurs in and upon the document exhibited, is the genuine signature of them respectively.

U. S. law agent present.

JOSE MA. COVARRUBIAS.

Sworn to and subscribed before me, this 17th Jan'y, 1853.

HARRY J. THORNTON,
Com'r, &c.

Filed in office, Jan'y 15th, 1853.

GEO. FISHER, *Sec'y.*

SAN FRANCISCO, *Jan'y 14th*, 1853.

On this day, before me, Com'r Hiland Hall, came Nicholas A. Den, a witness in behalf of Gabriel Ruiz et al., petition No. 430, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

Deposition of N. A. Den.

In answer to inquiries by counsel for the claimants, the witness testified as follows, viz:

My name is Nicholas A. Den; my age is forty years, and I reside at Santa Barbara; I am acquainted with the handwriting and signatures of Juan B. Alvarado, Antonio Rodrigues, and Luis Carrillo. A paper is now shown me, purporting to be a grant from Governor Alvarado to José Pedro Ruiz, dated May 10th, 1837, to which is annexed a testimonial of juridical possession and of approval by the territorial deputation. I have examined the signatures of the said several persons appearing on said paper, and believe them all to be genuine; said paper is hereto annexed, and marked H. H., No. 1.

I was knowing to the issuing of the said grant and to the giving of the judicial possession of the land as shown by said papers; I was acquainted with José Pedro Ruiz and his family; he died three or four years ago; he left a widow named Maria Ignacio Lugo; he left the following children: the sons were, Carlos, Geronimo, Gabriel, José, Batugua, Ilareon, and José Antonio; and the daughters were, Bernarda, Arcadia, Caledonia, and Diogracia—seven sons and four daughters; these were living at the time of the death of their father; said Ruiz had also three other daughters, who died previous to his decease, one of whom was Presentacion, and another Petra.

Presentacion was married to Rafael Pico, and left at her decease, as I think, three children; one was Rafael, and another Chepita, and Maria de los Angeles; Chepita married a man by the name of Esqueora, and died, and, as I understand, left children, but I did not know them; Petra was married to Francisco Arellanes, and left three children, named José, Guadalupe, and Soledad. Since the death of José Pedro Ruiz, his daughter, Diogracia, has deceased; she was the wife

of Esteban Ortega, and died a few months ago, leaving several children, whose names are, according to my best knowledge and belief, as follows: José Dolores, José Ramon, José del Carmen, Sebastian, Francisco, Refugio, Prudencia, and Maria de Los Angeles.

I am acquainted with the land called Calleguas, described in the papers before mentioned. José Pedro Ruiz occupied the land soon after the grants, and occupied it with his family until his decease, and it has been continued to be occupied by the family to the present time. He planted a vineyard, and cultivated a portion of the land, and occupied it with stock, and his family have done the same since his decease. The land is in the county of Santa Barbara, and is situated some fifty or sixty miles to the southeast of the town of Santa Barbara.

N. A. DEN.

Notice acknowledged.

ROBERT GREENHOW,
Ass't Law Agent.

Sworn and subscribed before me,

HILAND HALL, *Com'r.*

Filed in office, Jan'y 15th, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Henry Carnes.

SAN FRANCISCO, *Jan'y 20th*, 1853.

On this day, before Com'r Harry J. Thornton, came Henry Carnes, a witness in behalf of the claimants, Gabriel Ruiz et al., petition No. 430, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

Questions by Claimant.

Question 1st. What is your name, age, and place of residence?

Answer. My name is Henry Carnes; my age is thirty years; my place of residence is Santa Barbara.

Question 2nd. Are you acquainted with the ranch claimed in this case; and if so, state where it is situated and to whom was it granted?

Answer. I am acquainted with the ranch called Calleguas, and it was granted to José Pedro Ruiz, who died in 1851, or in December, 1850, and his children are the present claimants.

Question 3rd. Do you or not know whether the said Ruiz, the original grantee, had children; and if so, state whether any are dead; if so, which one, or by what name called?

Answer. I do know that the said Ruiz had a daughter by the name of Presentation, who died before her father, leaving three children, two daughters and one son; one of those daughters, named Josefa, died, leaving two children, whose names I think are Janefa, Blendena, and a husband named Ignacio Esqueora.

U. S. law agent present.

HENRY CARNES.

Sworn to and subscribed before me this 20th of Jan'y, 1853.

HARRY J. THORNTON, *Com'r, &c.*

Filed in office, Jan'y 20th, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Antonio Carrillo.

[No. 430.] LOS ANGELES, *Nov. 13th*, 1852.

On this day, before Com'r Hiland Hall, came José Antonio Carrillo, a witness in behalf of the claimants, Gabriel Ruiz et al., and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimants, the witness testified as follows:

My name is José Antonio Carrillo; my age is fifty-seven years, and I reside in Los Angeles.

I know José Pedro Ruiz, who has been dead two or three years ago; I cannot tell the precise time of his death. He left a number of children; the names of the children were, Carlos, Geronimo, Gabriel, José, Baltazar, Ilareon and José Antonio, seven sons; and Bernarda, Arcadia, Caledonia and Diogracia, four daughters—these are all living. There were other daughters named Presentacion and Petra, who are deceased. Presentacion left children, but I do not know their names, nor how many. Ruiz died in Santa Barbara, as I have understood.

JOSE ANTO. CARRILLO.

Sworn and subscribed before me,

HILAND HALL, *Com'r.*

Filed in office, Nov. 13th, 1852.

GEO. FISHER, *Sec'y.*

Document H. H, No. 1, annexed to the Deposition of N. A. Den.

H. H, No. 1.

El Ciudadano Juan Bautista Alvarado, Gobernador del Estado, Coronel de la Milicia, Cibica y Presidente de la Ex'ma Diputacion del mismo.

Por cuanto el C'no José Pedro Ruiz ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Calleguas, dentro de los linderos del diceño que acompaño á su solicitud; practicadas previamente las diligencias concernientes, segun lo dispuesto por las leyes y reglamentos de la materia, usando de las facultades que me son consedidos, á nombre de la nacion Mejicana, he venido su concederle el terreno mencionado declarandole la propiedad de el, por las presentes letras, entendiondose dicha concesion, con entera conformidad á las leyes, á reserva de la aprobacion ó disaprobacion de la ex'ma diputacion, y bajo las condiciones siguientes:

1a. Los agrasiados ni sus herederos podran dividir ni enagenar el que se les adjudica; imponerle, censo, vinculo, fianza, hipoteca ni otro gravamen aunque sea, por causa piadosa ni pasarlo á manos muestas.

1821

No. 135.

430-2

2a. Podrán cercarlo sin perjudicar las travesias caminos, y servidumbres lo disfrutará libre, y esclusivamente destinandolo al cultivo y uso que mejor le acomode.

3a. Cuando se les confiera la propiedad solicitara del juez respectivo, les dé la posecion legitima ó juridica en virtud de este despacho, por el cual se demarcaran los linderos y pondrar sus mojoneras.

4a. El terreno de que se les hace donacion es puramente el que se espresa en la solicitud de los interesados y se demarca en el diceño que corre agregado al espediente; y el juez que los posesione pasará aviso á este gobierno del numero de sitios que comprende.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero, se tome razon en el libro que corresponde, y se entregue al interesado para su resguardo, y demas fines que convengan.

Dado en la ex-Mision de S'ta Barbara, á 10 de Mayo, de 1837.

JUAN B. ALVARADO,
V. PRUDON, *S'rio Int'o.*

En sesion de 20 de Mayo, de 1837, aprobó la ex'ma diputacion, erigida en congreso constituyente, las proposiciones del dictamen de la comision de terrenos baldios, que á la letra es como sigue:

1o. Se le concede al Ciudadano José Pedro Ruiz, el paraje nombrado Cayeguas, por obtener los requisitos, que previone la ley de 18 de Agosto, de 1824, y el art'o 5o del reglam'to de 21 de Nov're, de 1828.

2o. Comprendera la concesion desde los linderos de Simi, el corrego Guadalamera Posas y S'n Buenaventura.

S'ta Barbara, Mayo 28, de 1837.

JUAN B. ALVARADO,
VICTOR PRUDON.

ANTONINO BUELNA,
JOSE RAMON ESTRADA.

El agraciado agregará tarjado un pliego de á seis pesos conforme á la ley.

V. PRUDON.

[*For map see original, page* 12.]

S'or Juez de Paz de este puerto:

José Pedro Ruiz avecindado en esta municipalidad, ante V. correo mejor haya lugar en derecho y al suyo convenga, se presenta y dise, que habiendo solicitado del gobierno del departamento la adjudicacion

del terreno que espresa el diceño adjunto, se le concedió por d'ho gobierno con f'ha 10 del Marzo, de 1837, y se aprobo por la ex'ma diputacion en 21 del mismo mes y año, como lo acredita el titula que de debidamente acompaño. En tal virtud, y su la de ser requisito de ley q. para mejor seguridad del interesado en asunto de esta naturaliza solicite del juez respectivo la posecion juridica, la impetra a la presente el que subscribe de la autoridad q. V. representa, por tanto.

A V. suplica se sirba tener la bondad de pasar a darle la referida posecion del mencionado parage en lo que recibira merced y gracia, sirviendose darle á este papel comun toda su balidacion por no haber en este punto del sellado que corresponde.

S'ta Barbara, N'bre 9, de 1839.

S'TA BARBARA, 9*bre* 10, *de* 1839.

En bista de la presente solicitud que hase el interesado ha dispuesto este juzgado de mi cargo proseder a la posecion juridica el martes proximo 12 del corriente.

ANTONIO RODRIGUEZ.

Juez de paz de esta municipalidad, asi lo decreto, mandó y firmó.

ANTONIO RODRIGUEZ.
LUIS CARRILLO,
S'crio interino.

En el presidio de S'ta Barbara a los doce dias del mes de N'bre, de 1839, anuente á la solicitud del ciudadano José Pedro Ruiz, a fin de que se le de la correspondiente posecion del sitio llamado Calleguas, consedido por el gobierno de este departamento, y habiendo la falta de un agrimesor que para efecto de las medidas correspondiente debia compareser, para que mida el enunciado terreno lo hisé, yo el primer nombrado juez de ciudadano Antonio Rodriguez con total arreglo á las primeras medidas que se han practicado cuyo diseño se agregara al espediente parase por mi y los testigos de acistencia, al espresado sitio y prosedase a dar la posecion indicada con arreglo al titulo que se le ha conferida por el gobierno con f'ha 10 de Mayo, de 1837. Yo el espresado juez de este punto, asi lo decrete, mandé y firmé, con los testigos de mi acistencia, doy fée.

ANTONIO RODRIGUEZ.

Acis'a: LUIS CARRILLO,
Acis'a: VICENTE PICO.

En el rancho nombrado Calleguas, á los trese dias del mes de N'bre, de 1839, el juez que subscribe habiendo echo sitacion de colindantes comparecieron estos que fueron los ciudadanos José Carrillo por el rancho de las Posas, Luis Carrillo por el de Simi, José Ma. Rodriguez por el del Conejo, y Visente Pico, como mayordomo por el establecimiento de S. Buenaventura, los hise saber el objeto con que me habia conducido a quel parage, y que en este caso presentaren los documentos que respectivamente tubiesen sobre propiedad de aquel terreno

pues iba á medirlo y poner en posecion de el al ciudadano José Pedro Ruiz, y no habiendo presentado documentos ningunos que impedieran las medidas les dije que iba a proseder á ellas; lo que pongo por diligencia que autorizo y firmo con los de acistencia, segun derecho.

ANTONIO RODRIGUEZ.

Acis'a: LUIS CARRILLO,
Acis'a: VICENTE PICO.

En el referido lugar a los catorce dias del mismo mes y año, yo proprio juez para la practica de estas diligencias nombre dos oficiales medidores y d'ro cordeleros a quienes les hice saber su nombramiento el que aseptaron bajó de juramento, que otorgaran, ofreciendo disempenar fielmente su encargo, lo que autorizo y firmo con los testigos de mi acistencia, segun derecho.

ANTONIO RODRIGUEZ.

Acis'a: LUIS CARRILLO,
Acis'a: VICENTE PICO.

En el mismo dia, mes y año, estando en el paraje nombrado la Brea, cuyo colinda al sur con el rancho nombrado la Laguna, al oriente con el Conejo, al norte con el de las Posas, y al poniente con el establecimiento de S. Buenab'a, á efecto de benificar las medidas, y posecion que corresponde al S'or José Pedro Ruis, del sitio nombrado Calleguas, prebios todos los requisitos de ley, y estando ante mi los testigos de acistencia los oficiales medidores, y yo el juez ciudadano Antonio Rodriguez, hise medir un cordel que contenia cincuenta varas, el cual fue exsaminado y reconocido, y haciendo á sus estremos unos sancos de madera, y por mi disposicion se tiro el cordel rumbo al norte, comensando desde la oria de las lomas en donde estan tres alamos unicos q'l serbieron de mojonera, y habiendo medido tres cuartos de legua remato al pio de la cuchilla de los Posas, en donde se clabo un palo en señal de mojonera, y en prosecucion se tiro la cuerda por sobre una cuchilla rumbo al oriente, y habiendose medido legua, y cuarto remato la medida en lo alto de una lomo q'l esta contigua a la tierra rajado, y en seguida se tiro rumbo al sur trosando la Cañada de St'a Rosa, y si midio un cuarto de legua habiendo rematado la medida en lo alto de una loma, en donde se clabo un palo en señal de mojonera, y en conclucion se tiro la cuerda rumbo al poniente por la oria de unas lomas, y se midio legua y media habiendo rematado en el puerto darde se principiaron, y se concluyeran las medidas de este sitio á satisfaccion del interesado, lo que pongo por diligencia que autoriso, y firmo con los testigos indicados.

ANTONIO RODRIGUES.

Acisa.: VISENTE PICO,
Acisa.; LUIS CARRILLO.

Filed in office, Jan'y 15th, 1853.

GEO. FISHER, *Sec'y.*

[REC. CXXXV, D. T., 1856.]—2

Exhibit B.

The citizen Juan Bautista Alvarado, Governor of the State, Colonel of the Civic Militia and President of the most excellent the Deputation of said State.

Whereas, the citizen José Pedro Ruiz has claimed for his personal benefit and that of his family the tract known by the name of Callegnas, within the limits of the sketch which he subjoined to his petition; after going through those proceedings in that behalf, which the law and the regulation affecting the matter direct, in the exercises of the powers granted to me in the name of the Mexican nation, I have come to grant to him the aforesaid tract of land, declaring the ownership thereof to be vested in him by these presents; said grant being understood to be in entire conformity with the law, under reservation of the approval or disapproval of the most excellent the deputation, and under the following conditions:

1. The grantee nor his heirs shall not have power to direct or alien the adjudicated tract, burden it with rent charge, entail, bond, mortgage, nor any other incumbrance, although for a religious object, nor reduce the same to mortmain.

2d. They may fence the same without prejudice to the cross-roads, highways and rights of way; he may enjoy it freely and exclusively, devoting it to such cultivation and use as best may suit him.

3d. When the ownership be conferred upon him, he shall petition the judge having jurisdiction to give him the legitimate or juridical possession, by virtue of this grant. Said judge shall assign the limits, and the grantee shall place his landmarks.

4th. The tract hereby granted is merely that mentioned in the petition of the parties interested, and is marked in the design annexed to the minutes of preliminary proceedings, and the judge who gives possession shall report to this government the number of sitios which it contains.

Wherefore, I order that these presents, being his title and being held as firm and valid, be entered of record in the appropriate book and delivered to the person in interest, for his protection and other behooving purposes.

Given at the ex-mission of Sta. Barbara, May 10th, 1837.

JUAN B. ALVARADO,
VICTOR PRUDON,
Secretary pro tem.

In session of the 20th of May, 1837. The most excellent the deputation, erected into a constituent congress, approved the propositions of the report of the committee on waste lands, which is literally as follows:

1st. Grant is made to the citizen José Pedro Ruiz of the tract called Cayeguas, inasmuch as it has the requisites required by the law of August 18th, 1824, and art. 5th of the regulations of Nov. 21, 1828.

802

2d. The grant will extend from the boundaries of Simi el Corrego, Guadalameza, Posas and Buenaventura.

JUAN B. ALVARADO,
VICTOR PRUDON.

ANTONINO BUELNA,
JOSE RAMON ESTRADA.

Sta. Barbara, May 28, 1837.

The grantee will annex, defaced, a sheet of six dollar stamp, to conform to the law.

V. PRUDON.

To the Justice of the Peace of this place:

SIR: José Pedro Ruiz, a resident of this town, before you in such manner and form as is most agreeable to law and behooving to his own cause, appears and says, that he having solicited the government of the department to adjudicate to him the tract of land mentioned in the annexed design, the same was conceded to him, under date 10th of May, 1837, and (the grant was) approved by the most excellent the deputation on the 21st of same month and year, as appears by the grant, which he duly subjoins. Wherefore, and inasmuch as the law requires that, for greater security of the party interested in matters of this nature, he should petition the competent magistrate to give him juridical possession, the undersigned at present solicits the same from you in your official capacity. Wherefore, he beseeches you to be pleased to have the goodness to repair to give him said possession of the tract above mentioned, wherein he will receive mercy and favor. Vouchsafe to give entire *entire* sanction to this common paper, there being none in this place of the proper stamp.

Sta. Barbara, Nov. 9, 1839.

STA. BA., *Nov. 10th*, 1839.

In view of the present petition made by the party in interest, this court, under my charge, has decided to proceed to the juridical possession, Tuesday next, 12th inst.

Antonio Rodrigues, justice of the peace of this town, has so decreed, ordered and subscribed.

ANTONIO RODRIGUES,
LUIS CARRILLO,
Secretary ad interim.

At the town (presidio) of Sta. Barbara, on the twelfth day of November, 1839, in the compliance with the petition of the citizen José Pedro Ruiz, for the purpose of giving him the due possession of the premises called Calleguas, granted by the government of this department, and there being no surveyor, although for the due measurements there ought to be one who could survey said tract, his place was filled by me, the first nominated justice of the peace, citizen Antonio Rod-

riguez, in entire conformity with the former measurements taken, the plan whereof will be annexed to the minute of proceedings, ordered that I and the attesting witnesses repair to the said premises, and proceed to give the said possession in accordance with the title conferred upon him by the government under date of May 10th, 1837. I, the said judge of this place, have so decreed, ordered, and subscribed, with my attesting witnesses.

Witness my hand.

ANTONIO RODRIGUES.

Attest: LUIS CARRILLO,
Attest: VICENTE PICO.

At the rancho called Calleguas, on the thirteenth day of the month of November, 1839, the undersigned judge, having summoned the owners of neighboring lands, the latter appeared, viz: José Carrillo in behalf of the rancho Las Posas, Luis Carrillo in behalf *in behalf* of that of Simi, José Ma. Rodriguez, in behalf of El Conejo, and Vicente Pico as steward of the establishment of S. Buenaventura; I informed them of the object of my visit to these premises, and that they should in this case produce any documents they respectively may have concerning ownership of that, inasmuch as I was about to survey the same, and put in possession thereof the citizen José Pedro Ruiz; and they not presenting any documents that could prevent the survey, I told them I would now proceed to the same. Whereof I take note, certifying and subscribing the same, with the attesting witnesses, according to law.

ANTONIO RODRIGUES.

Attest: LUIS CARRILLO,
Attest: VICENTE PICO.

At the said place, on the fourteenth day of the said month, same year, I the judge in person, for the practical part of these proceedings, appointed two official measurers and two line-bearers, whom I notified of their appointment; they accepted the same under the oath which they took, promising faithfully to fulfil their charge, which I certify and subscribe with my attesting witnesses, according to law.

ANTONIO RODRIGUEZ.

Attest: LUIS CARRILLO,
Attest. VICENTE PICO.

On this same day, month and year, being at the place called La Brea, which is bounded south by the rancho called Laguna, east by that of the Conejo, north by that of Las Posas, and west by the establishment of the San Buenaventura, for the purpose of carrying into effect the survey and delivery of possession to which Mr. José Pedro Ruiz is entitled of the premises called Calleguas, all the requisites of the law having been first complied with, and having in my presence the attesting witnesses and the official cord-bearers, I the judge, citizen Antonio Rodriguez, caused a line to be measured consisting of fifty varas, which was examined and verified; wooden poles were fastened at the

extremities and under my directions the line was drawn north, beginning at the edge of the hills where three elms stand alone, which were taken for a landmark, a measurement of three fourths of a league ended at the foot of the spur of Las Posas, where a stake was driven in sign of landmark.

And in furtherance the cord was drawn over a spur eastwardly, and a measurement of one and a quarter leagues ended at the top of a hill close to the split ground, (tierra rajada,) and afterwards it was drawn southwardly, cutting the Cañada of Sta. Rosa, and there measured a quarter of a league, which measurement ended at the top of a hill, where a stake was driven in token of landmark; and in conclusion the line was drawn westwardly along the edge of some hills, and a measurement of one and half league ended at the place where these measurements of this tract commenced, and were now terminated to the satisfaction of the party in interest, which I note, certify and subscribe with the said witnesses.

ANTONIO RODRIGUES.

Attest: LUIS CARRILLO,
Attest: VICENTE PICO.

Filed in office, Nov. 1st, 1852.

GEO. FISHER, *Sec'y.*

[1 S. D. K.]

Espediente promovido por el ciudadano José Pedro Ruiz, en pretencion del paraje nombrado Calleguas.—1837.

(148.)

Exhibit No. 1.

[2 S. D. K.] Ex'mo S'or:

José Pedro Ruiz, natural y vecino de este puerto, ante la superior autoridad de V. E. respetuosamente espongo, que cargado de años y de familia, los que he consagrado al servicio del pais California, como podra justificarlo con mis gloriosas heridas, y el testimonio publico q'l son mis hojas de servicio, implora a hora de la benevolencia caracteristica de V. E. una corta porcion de la tierra q'l mis armas han defendido de la opresion. Libres ya. de ella, gracias a los esfuerzos valorasos de V. E. q'l se desuela p'a q'l el nombre California, sea como quizo la naturaleza, sinonimo de venturosa, no dado q'l se serviva V. E. acceder a la solicitud de un soldado viejo q'l solo siento haber nacido en el siglo 18, por no poder ofrecer a hora á V. E. mas q'l un brazo indeble.

Si s'or ex'mo, si q'l tengo un competidor respetable con quien no osara rivalizar, si no me animara la persuacion de q'l V. E. imparcial en la distribution de sus beneficios debe preferir al q'l mas los necesite.

El terreno conocido con el nombre de Calleguas esta valdio aunq'e lo ocupa sin titulo el capitan retivado Dn. José Ant'o de la Guerra, y

Noriega quien teniendo tierras feraces é immarsos criaderos donde pueden caber con amplitud sus ganados vacuno y caballar, no solo se apone á q'l yo impetre de V. E. el mencionado sitio, cuyo posesion no le ha sido otorgado por ningun gobernan'te sino q'l me estrecha a q'l sague mis bienes de Simi, donde los he tenido por carecer de un terreno propio.

Mi familia es numerosa, y no cuento con otro recurso para sostenerla q'l la cria de mi ganado, y el fruto de mis trabajos campestres; para uno, y otro necesito de un terreno aproposito. Por tanto, á V. E. [4 S. D. K.] suplico q'l atendiendo á mis munerosas servicios, y a la justicia q'l asiste á mi peticion, se digne concederme la merced q'l imploro, recibiendo en justa retribucion el testimonio sincero de mi gratitud eterna.

S'ta Barbara, Abril 20, de 1837.

No se firmar.

Otro si: A V. E. suplico se sirva admitiome esta en papel comun, por no haberlo del sello q'l corresponde.

S'ta Barbara, *Abril* 20 *de* 1837.

Informe el y'tre ayuntamiento de esta municipalidad si el solicitante obtiene todos los requisitos legales p'a ser atendido en su instancia, si el terreno que pretende esta en el caso de adjudicarse en colonizacion conforme á las leyes.

Evacuador estos, informes volvera el esped'te al gobierno p'a su resolucion.

ALVARADO.

S'ta Barbara, *Mayo* 1o, *de* 1837.

Vuelva esta espediente á la parte de Dn. José Ruiz, para que impuesto del informe de Dn. José de la Guerra y Noriega, conteste lo que mejor convenga en justicia.

ALVARADO.

Ex'mo S'or:

Habiendo de contestar esponiendo lo que encuentro de justicia para la concepcion de lo que pretendo digo: Que no es mi intencion ni solicito ceranar un palmo de tierra, de la parte de Simi, y de la propiedad del S'or D. José Noriega, y si solo mi peticion se contraé á suplicar á V. E. el que, por mis serbicios, y merito lla dichos se sirve consederme todo el terreno espresado desde la cañada del Salto, lindero del rancho de Simi.

Esta crea de justicia, ex'ma s'or pues lo que francam'to dise el S'or Noriega, que puede consederme, arriba de estas tierras quedan las mejores para siembras, y quedan tambien las principales vertientes que no son pertenecientes al rancho de Simi, y si algun pretendo.

S'ta Barbara, Mayo 1o, de 1837.

Arruego de José Pedro Ruiz, por no saber firmar.

FRAN'CO J. ALVARADO.

[6 S. D. K.] Y. Ayuntamiento:

La comision á quien V. S. se ha servido confiar para ql. determine sobre el espediente, que forma mi solicitud del invalido José Pedro Ruis, en pretencion del paraje nombrado Calleguas; en observancia del decreto, del govierno de fecha 20 del presente, espone que el interesado obtiene todos los requisitos legales paraser atendido en su solicitud que el terreno, ql. pretende se aya en estado de adjudicarse en colonizacion, conforme á la ley de 18 de Agosto, de 1824, y al reglamento de Noviembre, de 1828, pues aunque sea conocido, por de la pertenencia del S'r D. José Noriega, se crea que dicho sitio no se le á sido conferido, por el gobierno ni menos tiene una necesidad de ocuparlo, por tener *tener* otros donde puedan mantenerse sus ganados. El que representa es c'no Mejicano, á meritado, tiene buena conducta y bienes, con que poblarlo, por lo que se ase acreedor a ser amparabo, por la ley, y por las consideraciones del govierno á quien represente.

Por tanto ofrese la comision á la deliveracion de V. S. la siguiente
[7 S. D. K.] proposicion. Puede el govierno adjudicar en propiedad al C'no José Ruiz, el paraje nombrado Calleguas.

S'ta Barbara, Abril 22, de 1837.

PABLO VANEGA.

SANTIAGO LUGO.

Ex'mo S'or:

En secion de hoy, aprovó el Y. Ayuntamiento, la proposicion del dictamen antecedente acordando vuelva el espediente al gobierno para su resolucion, f'ha ut supra.

DIEGO OLVERA.
BENITO DIAZ, *S'rio.*

[8 S. D. K.] S'TA BARBARA, *Abril* 22, *de* 1837.

Pase este expediente á la parte de D. José de la Guerra y Noriega, para que en el termino de cuatro dias alegue en su fabor todo lo que estime conveniente.

ALVARADO.

Ex'mo Señor:

El paraje en cuestion, conocido por de Cayeguas, que solo se estiende h'ta el paralelo de la cañada que llaman del Salto des de la Laguna, ó aguaje de la mojonera, lo he ocupado pacificamente sin interrupcion ni reclamo, por espacio de quince años. Cierto es que no tengo de el una concesion escriturado, po. la posecion de buena fee en
[9 S. D. K.] todo el tiempo indicado, y la tacita aprovacion de quantos han governado al territorio desde aquella f'ha, entiendo ql. á lo menos hace mi d'ro á el de mejor condicion que el de quales quiera otro que procurase su adjudicacion. El actual pretendiente, es en verdad un sujeto que aprecio, y le he dado pruebas de mi estimacion, y si su solicitud se contrajere á pedio dos de la lomita, ql. separa las cienegas de Cayeguas del corral de las Ovejas, tomando segun su di-

seño, para el este, yo cederia de buena voluntad el lugar donde en la actualidad mantengo mi chinchorro; mas segun aparece del diseño citado, no solam'te aspira á todo Cayeguas, sino que tambien incluye alguna p'te de los terrenos de Simi. Re pito que deseo al solicitante todo el vien posible, y si variase los rumbos de su solicitud, le cederia gustosisimo el lugar que he insignuado; pero en todo caso, me resigno á lo que el gob'o disponga, seg'ro de que jamas intentare ning'a reclamacion.

Y es q'to espongo en cumplim'to del anteced'te sup'or decreto.

S'ta Barbara, 26 de Abril, de 1837.

JOSE DE LA GUERRA Y NORIEGA.

[*For map see original, page* 28.]

[11 S. D. K.] Ex'mo S'or:

La comision de terrenos valdios impuesta del espediente promovido por el C. José Pedro Ruiz hé informe del S'or Capitan D. José Noriega, sobre el paraje de Calleguas, sitio, ocupado por el segundo (segun) espresa d'ho informe que este sitio lo ocupa en pacifica posecion por el termino de quince años, solamente ocupado con tacita posecion de cuantos han gobernado desde aquella fecha y que hace derecho de mejor condicion que el de cualesquiera otro, que procurase su adjudicacion y que el actual pretendiente es en verdad un sujeto que aprecia y le ha dado pruebas de estimacion; la comision opina que es de derecho mayor la necesidad de Ruiz segun se ve que el s'or capitan en consideracion al aprecio que tiene a Ruiz pues el alegato que hace [12 S. D. K.] que por el termino de quince años que ocupa el derecho de posecion pacifica: Dice la comision que no es derecho legal sin constar documentos ni bienes raizes que es lo que puede asegurar legitimidad; mas penetrada la comision de que el s'or capitan posee algunos sitios de ganado mayor, y Ruiz no ocupa ni un palmo de tierra en posecion para el mantenimiento de su numerosa familia, por lo que hace a bienes semovientes, de consiguiente, ex'mo s'or la comision se haya penetrada y espone que no tiene por que negarsele el derecho que le asiste en justicia á José P. Ruiz, sin llegar á profundizar los requisitos mas que le adornan, y pone a la deliveracion de V. E. los sig'tes proposiciones:

1a. Se le consede al C. José Pedro Ruiz el paraje nombrado Calleguas, por obtener los requisitos que previene la ley de 18 de Ag'to, de 1824, y el ar'to 5o del reglamento de 21 de N'bre, de 1828.

Property of the U.S.S.R.
Not to be taken away

6230

1830

2a. Comprenderá la concesion desde los linderos de Simi, el Conejo, Gudalasa, Posas, y San Buenaventura.

Santa Barbara, Mayo 16, de 1837.

ANTONIO BUELVA.
JOSE R. ESTRADA.

S'TA BARBARA, *Mayo* 20, 1837.

En sesion de hoy se le dispensaron los tramitos a los proposiciones del dictamen que *que* antecede y fueron aprobadas por mayoria absoluta de votos.

ANTONIO BUELVA, *Pres'te*,
JOSE MA. COVARRUBIAS, *S'rio*.

Se espidió en propiedad el titulo correspondiente al interesado.

ALVARADO.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such having in my office, and under my charge and control, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the thirteen preceding and hereunto annexed pages of tracing paper, numbered from one to thirteen inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming a part of the archives in this office.

In testimony whereof, I have hereunto signed my name officially, (not having a seal of office,) at the City of San Francisco, this 27th day of October, 1852.

SAM'L D. KING,
Surveyor Gen'l, Cal'a.

Filed in office, Aug. 30th, 1853.

GEO. FISHER, *Sec'y.*

Record of Proceedings at the instance of the citizen José Pedro Ruiz, soliciting the location called Callegnas.—1837.

(148.)

Excellent Sir:

I, José Pedro Ruiz, a native and resident of this port, before your excellency's superior authority respectfully shows: That, burthened with years and a family, which I have devoted to the service of the country of California, as I shall be able to justify by my glorious wounds and the public testimonial which are my laurels of service: implore now of your excellency's characteristic benevolence a small portion of the land which my arms have defended from oppression; now free from it, thanks to your excellency's valorous efforts to watch that the name of California may be as nature wished, synonymous

with fortunate. I do not doubt that your excellency will be pleased to accede to the solicitation of an old soldier, who only is sorry that he has been born in the 18th century, because not being able now to offer your excellency more than a wornout arm. Yes, excellent sir, I know that I have a respectable competitor, with whom I should not dare to rival, were I not animated by the persuasion that your excellency impartial in the distribution of your benefits, must prefer him who most needs them.

The tract of land known by the name of Calleguas is vacant, though the retired captain D. José Ant'o de la Guerra y Noriega occupies it without title, and having fenced grounds and immense plantations of young trees, where his black cattle and horses may find plenty room, not only is opposed to that I may obtain by entreaty of your excellency the said sitio, the possession of which has not been granted him by any governor, but also compels me to draw my stock from Simi, where I have kept it for want of land of my own.

My family is numerous, and I don't reckon any other source to sustain it than the breed of my cattle and the fruit of my rural labors.

For each one I need a tract of land purposedly; therefore I pray your excellency, that in consideration of my numerous services and the justice which favors my petition, you will be pleased to grant me the grace I implore, receiving by way of a just retribution the sincere testimony of my gratitude.

Sta. Barbara, April 20th, 1837.

I don't know how to sign.

Postscriptum.—I pray your excellency to be pleased to admit this on common paper, because not having the corresponding stamped paper.

(In the margin.)

STA. BARBARA, *April 20th*, 1837.

The illustrious Ayuntamiento of this municipality will report whether the petition possesses all the requisites in order to be attended to in his solicitation; whether the land he solicits is susceptible of being adjudged in colonization according to the laws. These reports finished, the espediente will be returned to the government for its resolution.

(Signed) ALVARADO.

STA. BARBARA, *May 1st*, 1837.

Let this espediente be returned to the party, D. José Ruiz, that a report may be had from José de la Guerra of Noriega, by which it may be shown what shall best agree with justice.

ALVARADO.

Excellent Sir:

Having to answer, I represent what I find to be justice; and for the better understanding what I ask, I say that it is not my intention, nor do I solicit to clip off a palm of land from the part of Simi and from the property of José Noriega, but my petition only embraces to pray your excellency that in consideration of my services and merits already

mentioned, you will be pleased to grant me all the land expressed from the Cañada del Salto, boundary of the rancho de Simi. This, excellent sir, I believe to be justice, for Mr. Noriega frankly says it can be granted me above these lands, leaving the best one for corn-fields, and also leaving the principal waterfalls, which are not belonging to said rancho de Simi, but to that I solicit.

Sta. Barbara, May 1st, 1837.

As attorney for José Pedro Ruiz who does not know how to sign,

(Signed) FRAN'CO J. ALVARADO.

Illustrious Ayuntamiento:

The committee to whom your honor has pleased to entrust to give our opinion about the espediente which forms the solicitation of the invalid José Pedro Ruiz, in solicitation of the location called Calleguas, in observance of the decree of the government, dated 20th inst., shows that the interested party possesses all the legal requisites in order to be attended to in his sole citation; that the land he solicits is found to be in a state of being adjudged in colonization, conformable to the law of 18th August, 1824; that though it is known as the property of José Noriega, it is seen that said sitio has not been conferred on him by the government, no less has he a necessity for occupying it, as he has others where he can maintain his cattle. The petitioner is a Mexican by birth, is of a good conduct, and has movables wherewith to stock it; wherefore he is entitled to be favored by the law and by the considerations of the government, to which he refers himself. Therefore, the committee submit to your deliberation the following proposition: The government can adjudge in ownership the location called Calleguas, to the citizen José Ruiz.

(Signed) SANTIAGO LUGO,
PABLO VANEGA.

Santa Barbara, April 22d, 1837.

In to-day's session, the illustrious ayuntamiento approved of the proposition set forth in the foregoing opinion; let the espediente be returned to the government for resolution.

Date as suprà.

(Signed) DIECO OLIVERA,
BENITO DIAZ,
Secretary.

SANTA BARBARA, *April 22d*, 1837.

Let this espediente be sent to the party José de la Guerra, that in the space of four days he may allege in his favor all what he may deem convenient.

(Signed) ALVARADO.

Excellent Sir:

The location in question is known as Calleguas, which only is viewed to the passage of the Cañada, which they call del Salto, from

the lagoon or stream of la Mojonera Claudendon. I have occupied peaceably, without interruption or reclamation, for the space of fifteen years. To be sure, I have no written grant of it, but the possession and good faith in all the time indicated, and the tacit approbation of all those who have governed the territory since that date, thus opposing, at least, that my right is of a better condition than that of any other whomsoever who should solicit its adjudication. The actual petitioner is truly a person whom I esteem, and I have given him proofs of my regard; and if his solicitation be confined to ask from La Lomita, which separates Las Cienegas de Calleguas from the corral of sheep, taking according to his sketch a part of the east, I would cede in good will the place where, in reality, I maintain my ("chinchero;") but as it appears from the above mentioned exhibit, that he not only aspires to the whole of Calleguas, but also includes some part of the lands of Simi, I repeat that I wish the petitioner all possible good, and if the points in his solicitation should vary, I will most willingly cede to him the place which I have hinted at. But, in any case, I resign myself to what the government may determine, assured that it never will intercede any reclamation; and this is all I say in compliance with the foregoing superior decree.

JOSE DE LA GUERRA Y NORIEGA.

Santa Barbara, 26th April, 1837.

Excellent Sir:

The committee on vacant lands has been charged with the espediente, at the instance of the citizen José Pedro Ruiz and report of the Captain José Noriega, on the location of Calleguas, a sitio occupied by him, as is explained in said report; that he occupies this sitio in peaceable possession for the space of fifteen years, only occupied with tacit possession (approbation) of all those who have governed since that date, and that makes a right of better condition than that of any other whomsoever who might solicit its adjudication, and that the actual petitioner is truly a person he esteems, and has given proofs of regard. The committee is of opinion that it is of right of greater necessity for Ruiz, as is seen that the captain, in consideration of the esteem he entertains towards Ruiz, since he alleges that for the space of fifteen years' occupation he has had the right of peaceable possession. The committee says that there is no legal right without evidence from documents, nor landed personal property, which is that which may secure the legitimacy; but the committee being persuaded that the captain may possess some sitios de ganado mayor, (square leagues of land,) and Ruiz not occupies even a palm of land in possession for the maintenance of his numerous family, which is done with movable stock; consequently, excellent sir, the committee is persuaded, and represents that there is no occasion to deny José P. Ruiz the right which is favored in justice, without continuing to debate on the requisites, more than those advising him, and submits to your excellency's deliberation the following propositions:

1st. That the location called Calleguas be granted to the citizen José Pedro Ruiz, because possessing the requisites provided in the law of 18th of August, 1824, and article 5th of regulations of 21st November, 1828.

2d. That the grant be comprised from the boundaries of Simi el Conejo Guadalasa, Posas and San Buenaventura.

(Signed) ANTONINO BUELVA,
JOSE R. ESPADA.

Santa Barbara, May 16th, 1837.

STA. BARBARA, *May 20th*, 1837.

In to-day's session was dealt out the proceedings to the propositions in the foregoing opinion, and they were approved by absolute majority of votes.

(Signed) ANTONINO BUELVA,
President.
JOSE MA. COVARRUBIAS,
Secretary.

The corresponding title-deed of ownership was issued to the interested party.

(Signed) ALVARADO.

Filed in office, August 30th, 1853.

GEO. FISHER, *Sec'y.*

Interrogat'o á favor de D. Pedro José Ruiz.—Año de 1843.

Sello Tercero, Un Peso:

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

MANUEL CASTANARES.

MICHELTORENA.

S'or Jues de 1a Insta.:

José Pedro Ruiz, cabo retivado y vesino de Santa Barbara, ante V. como mas haya lugar en d'ro digo que conviniendo a mis intereses á los de mi familia qe. el superior gob'o del departam'to aclare ciertas dudas sobre limites proprios de mi rancho llamado Cayeguas, y los del colindante llamado Simi, pido av. tenga á bien hacer comparecer ante si a los S.S. D'n Antonio Maria Lugo, D'n Guillermo Cota, y D'n Vicente Sanchez y bajo del juramento digan.

1o. Si saber hasta donde se han reconosido los linderos del rancho de Simi al rumbo de San. Buenaventura, desde antes q'e d'cho rancho correspondiese al S'or D'n José de la Guerra y Noriega, y que declaren lo q'e les consta.

2o. Que digan desde donde por dicho rumbo se ha conosido el lindero de Cayeguas.

3o. Si el punto llamado S'ta Rosa ha pertenecido á Simi ó á Cayeguas.

4. Que digan siles compreden las generales de la ley, y practicados estas diligencias, suplico a V. tenga a bien mandar se me debuelban qe. estoy pronto a pagar las costas correspond'tes. Juro lo necesario, &c.

Ang's, Julio 8, de 1843.

No se firmar.

Otro si sigo: Que se sirva V. hacer comparaser por el mismo objeto al vesino Felipe Tallamantes al que se le haran las mismas preguntas anteriores.

No se firmar.

ANGELES, *Julio* 10, *de* 1843.

Por presentado y admitido su cuanto ha lugar á d'ro, y hagase compareser á los señores que pide la anterior solicitud, para practicar los interrogatorios respectibos.

ANTONIO F. CORONEL.

Ass'a: JUAN DE DIOS PADILLA,
Ass'a: FELIZ VALENZUELA.

En la misma f'ha hize comparecer al Señor Don Antonio Maria, y siendo presente le recibi, juramento en forma bajo el cual ofrecio decir verdad en lo que supiere, y fuere preguntado. Dijo llamarse como queda dichá de sesenta y ocho años de edad, casado C. A. R. labrador, natural de la mision de San Antonio, y vecino de esta, y preguntandole con respecto al anterior interrogatorio, responde:

A la 1a. pregunta: Que desde adelante del encino donde hace, una cuchillita cosa de dos cientos varas mirando, para el norte es una linea y de alli, por toda otra cuchilla hasta el portezuelo. De la tierra rajada de cuyo portezuelo derrama para Simi y Callehuis, de aqui mirando al oriente otra cuchilla hasta otro portezuelo que pertenece á Simi y al Sancito del Conejo y de hay, toda la cuchilla dando vuelta para la Sierra de Santa Susana, hacia al norte siguiendo la buelta hasta rematar en frente del encino, lo que supo por que fue en comision el año de mil ochocientos veinte, y ocho siendo jues de campo, que lo mandaron á reconocer terrenos.

A la 2a. contesta: Que lo espuesto en la anterior pregunta.

A la 3a. Que sabe correspondia á San Buenaventura.

A la 4a. Que tanto es pariente de Don José Noriega, como de Don José Pedro Ruiz.

Que es lo que puede decir, y la verdad á cargo de su juramento en que se á firmó y ratifico, leido el anterior interrogatorio que no firmo, por no saber lo hize yo con los de ass'a, segun derecho.

ANT'O F. CORONEL.

Ass'a: J. TEMPLE,
Ass'a: JUAN DE DIAS PADILLA.

En seguido compareció Don Guillermo Cota, y siendo presente le recibi, juramento en forma de derecho, bajo el cual ofreció decir verdad en lo que supiere y fuere preguntado dijo; llamarse como queda dicho de setenta, y cinco años de edad vindo, C. A. R. campista, natural de Loreto y vecino de esta, y respondiendo al anterior interrogatorio contesta:

A la 1a. Que desde un lugar que le llaman el queso donde esta un peñasco para el camino real de San Buenaventura, agarrando la cuchilla hasta la tierra rajada de aqui toda la lomeria dando vuelta, por la sierra de Santa Susana, por tapo hasta concluir en el queso.

A la 2a. Dijo ser la misma que la primera.

A la 3a. Que pertenecia á la mision de San Buenaventura.

A la 4a. Que no le tocan las generale de la ley que, es lo que puede decir, y la verdad á cargo de su juramento en que se á firmó y ratificó, leido el anterior interrogatorio que firmo, con migo y los de ass'a, segun d'ro.

ANT'O J. CORONEL,
GUILL'O COTA.

Ass'a: JUAN DE DIOS PADILLA,
Ass'a: FELIZ VALENZUELA.

Acto continuo compareció Don Vicente Sanchez, y siendo presente le recibi, juramento en forma de derecho, bajo el cual ofreció decir verdad, en lo que supiere y fuere preguntado, dijo: llamarse como queda dicha de cincuenta y ocho años, de edad casado, C. A. R. campiste, natural y vecino de esta, y respondiendo á las preguntas del anterior interrogatorio contesta:

A la 1a. Que con motibo á tener en aquella epoca el declarante amistad con el finado Patricio Pico, fue con el una vez, y ensenandole los linderos de Simi le ensaño que le pertenecia desde el queso para el camino real de Buenaventura, donde esta un roble poco antes de las pozas, toda la cuchilla hasta la tierra rajada toda la lomeria por la sierra de Santa Susana, tapo y siempre dando buelta hasta llegar al queso.

A la 2a. Que ignora el contenido de la pregunta.

A la 3a. Que sabe que era de San Buenaventura y es de José Ruiz.

A la 4a. Que no le tocan las generales de la ley, que es lo que puede decir, y la verdad á cargo de su juramento en que se afirmo, y ratifico leido este interrogatorio que firmo con migo, y los de asistencia, segun d'ro.

VICENTE SANCHEZ,
ANTO. F. CORONEL.

Ass'a: JUAN DE DIOS PADILLA,
Ass'a: FELIS VALENZUELA.

En seguida comparecio Don Felipe Talamantes, y siendo presente le recibi, juramento en forma de direcho, bajo el cual ofrecio decir verdad en lo que supiere, y fuere preguntado, dijo: llamarse como queda

dicho de setenta años, de edad casado, C. A. R., natural de la Baja California, y vecino de esta y contestando al anterior interrogatorio responde.

A la 1a. Que sabe que el terreno de Simi segun le informaron en aquella epoca Don Felipe Guicochea y otros, llega hasta la tierra rajada por la parte de S. Buenaventura, y de hay dando buelta por la sierra se llega a la cuesta de Santa Susana, y de alli seda buelta para el lado del conejo.

A la 2a. Que ignora el contenido de la pregunta.

A la 3a. Que sabe pertenece á calle huis.

A la 4a. Que no tiene parentezco ni con José Ruiz, ni con D. José Noriega, que es lo unico que puede decir, y la verdad á cargo de su juramento en que se afirmo y ratifico, leido el anterior interrogatorio que no firmo, por no saber lo hize, yo con los de asistencia, segun d'ro.

ANTO. F. CORONEL.

Ass'a: JUAN DE DIOS PADILLA,
Ass'a: FELIS VALENZUELA.

Estando concluidas estas diligencias que se completaron en papel comun por falta de sellado, devuelvause a la parte los usos que le convengan.

Asi yo el juez que subscribe decrete, mandé y firme, con los de asistencia, segun derecho.

ANTO. F. CORONEL.

Ass'a: JUAN DE DIOS PADILLA,
Ass'a: FELIS VALENZUELA.

Razon se entregaron en seis fojas utiles.

(A flourish.)

Sello Tercero, Un Peso.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para el año de mil ocho cuarenta y tres.

MICHELTORENA. MANUEL CASTANARES.

[Alta. marit'a de Mont'y.]

José Antonio Carrillo, vecino de la ciudad de Los Angeles, de la Alta California:

Certifico en cuanto haya lugar: Que en el año de 1828, siendo alcalde constitutional de dicha ciudad y en cargado del juzgado de 1a instancia, recibi una queja de los R. R. Padres ministros de la mision de S. Buenaventura, demandando a D. Rafael Pico dueño que era del rancho de Simi, por matanzas de ganado vacuno q'e hacia en terrenos de la espresado mission; que para remediar este abuso encargué al juez de campo D. Antonio Ma. Lugo, para q'e con tres ciudadanos honrados pasase al reconocim'to de aquellos terrenos y diese cuenta al juzgado de lo que advirtiera sobre la demanda, haciendo q'e el S'or Pico probase q'e hacia las matanzas indicados dentro de sus terrenos en el rancho de

Simi. El resultado de todo el negocio fue, que el muy repetido S'or Pico, hizo ver qe. los linderos de su rancho por el rumbo que se le cuestionaba consistian desde el roble (a) el queso rumbo al sur directamente al nacimiento del agua de la tierra ragada y de a hé á los serros que lindan con el rancho del Conejo; bajo este concepto juzgado obró como mejor le pareció en el asunto; y a pedimento de D. José Ruis, dueño del rancho de Cayeguas, doi la presente en los Angeles, a 10 de Julio, de 1843. JOSE ANTONIO CARRILLO.

Filed in office, Jan'y 15th, 1853. GEO. FISHER, *Sec'y.*

A series of Interrogatories on behalf of D. Pedro José Ruiz.—Year 1843.

Sir Justice of the 1st Instant:

I, José Pedro Ruiz, retired corporal and resident of S'ta Barbara, as best may be consistent with law, represent before you, that it being subservient to my own and family's interests, that the superior government of the department explain certain doubts about the proper limits of my rancho called Cayeguas, and those of the bordering rancho called Simi; and you to be pleased to cause to appear before Don Antonio Maria Lugo, Don Guillermo Cota and Don Vicente Sanchez, and to let them declare under oath:

1st. If they know to what point the boundaries of the Rancho Simi have been recognised in the direction of San. Buenaventura from first, when said rancho would belong to D'n José de la Guerra y Noriega, and that they will declare what determines the boundaries.

2d. That they declare from whence in this direction the boundary of Cayeguas has been known.

3d. Whether the locality called Santa Rosa has belonged to Simi or to Cayeguas.

4th. That they declare whether the disabilities of the law affect them. And having taken this action, I pray you to be pleased to make a return thereof, I being ready to pay the costs incurred. I swear to the necessary, &c.

Angeles, July 8th, 1843.

I don't know how to sign.

Postscriptum.—You will be pleased to cause to appear for the same purpose the resident Felipe Talamantes, to whom the same questions as the foregoing will be put.

Date above.

Don't know how to sign.

ANGELES, *July* 10*th*, 1843.

The foregoing having been solicited and granted in as far as is consistent with law, let the gentlemen called for in the foregoing solicitation be summoned, so that the respective interrogatories may be made.

ANTO. F. CORONEL.

As.: JUAN DE DOIS PADILLA,
As.: FELIPE VALENZUELA.

Under the same date I caused Don Antonio Maria to appear, and he being present, I swore him in due form, under which oath he promised to tell the truth about what he should know and be interrogated about. He said his name was above stated; that he is sixty-eight years of age, married, a Roman Catholic, a farmer, a native of the mission of San Antonio, and a resident in this. And questioning him respecting the foregoing series of interrogatories he answered:

To the 1st question. That further off from the oak, where it makes a cut about two hundred varas fronting to the north, there is a line, and from thence, by quite another cut, up to the portezuelo de la tierra rajada, which portezuelo empties towards Simi and Callehuis; from hence another cut fronting to east up to another portezuela that belongs to Simi, and to the Sancito del Conejo, and from hence all the cut running back along the Sierra de Santa Susana towards north, following up the circuit hill, ending in front of the oak, all of which he knew, because he was an officer in the year 1828, being a county justice that was ordered to recognise lands.

To the 2d question. That it is answered through the foregoing question.

To the 3d question. That he knows it belonged to San Buenaventura.

To the 4th. That he is a relation as well of D. José Noriega as of Don José Pedro Ruiz; that what he can say is the truth under his oath, which declaration he affirmed and ratified after the foregoing interrogatories had been read to him; that he did not sign because he did not know how. I did so with the assistants, according to law.

ANTO. F. CORONEL.

As.: J. TEMPLE,
As.: JUAN DE DOIS PADILLA.

Thereafter appeared Don Guillermo Cota, and being present, I swore him in legal form, under which oath he promised to tell the truth about what he should know and be questioned about. He said that his name is as above stated, that he is seventy-five years of age, a widower, a Roman Catholic; that he is a husbandman, a native of Loreto, and a resident in this, and answered to the following interrogatories.

To the 1st. That from a place called El Queso, where *where* there is a ridge of rocks, there goes the highway from San Buenaventura, taking up the cut as high as La Sierra Rajado; from hence all the highlands, running back by the Sierra de Santa Susana por Tapo, till ending at El Queso.

To the 2d, he said to be the same as the first.

To the 3d. That it belonged to the mission of San Buenaventura.

To the 4th. That the disabilities of the law don't affect him; that it is all he can say, and is the truth under his oath, which declaration he affirmed and ratified; the foregoing interrogatories have been read to him, which he signed with me and the assistants, according to law.

GUILLERMO COTA,
ANTO. F. CORONEL.

As'a: JUAN DE DIOS PADILLO,
FELIZ VALENZUELA.

In continuance Don Vicente Sanchez appeared, and being present, I swore him in legal form, under which oath he promised to tell the truth about what he should know and be interrogated about. He said that his name was above stated; that he is fifty-eight years of age, a husbandman, native and resident of this place, and he answered to the foregoing interrogatories.

To the 1st. That deponent, by reason of being at that period in friendship with the deceased Patricio Pico, he went once with him, and he showing the boundaries of Simi, he showed him that it belonged to him from El Queso towards the highway, San Buenaventura, where there is a growth of oak trees a little before Las Posas all the cut up to Tierra Rajado, all the highland along the Sierra de Santa Susana Tapo, and always running back till reaching El Queso.

To the 2d. That he is ignorant of the contents of the question.

To the 3d. That he knows it belonged to San Buenaventura, and to José Ruis.

To the 4th. That the disabilities of the law do not affect him; that it is all he can say, and that it is the truth under his oath, which declaration he affirmed and ratified, after this interrogatory had been read to him, and signed with me and the assistants, according to law.

VICENTE SANCHEZ,
ANTO. F. CORONEL.

Assist's: JUAN DE DIOS PADILLA,
As.: FELIPE VALENZUELA.

Thereafter appeared Don Felipe Talamantes, and being present, I swore him in legal form, under which oath he promised to tell the truth about what he should know and be interrogated about. He said that his name was as above stated; that he is seventy-five years of age; married; a Roman Catholic; a native of lower California, and a resident of this place, and in answer to the foregoing interrogatories he replied:

To the 1st. That he knows that the tract of land called Simi, according to what Don Felipe Guicochea and others informed him at that time, reaches up to Tierra Rajada towards Santa Buenaventura, and from hence running back along the Sierra, the coast of Santa Susana, is reached, and from thence running back side long the Conejo.

To the 2nd. That he is ignorant of the contents of this question.

To the 3d. That he knows that it belongs to Callehuis.

To the 4th. That he is not related neither to José Ruiz nor to D. José Noriega; that it is all he can say, and that it is the truth under the oath he has taken, which declaration he affirmed and ratified after the foregoing interrogatories had been read to him; he did not sign because he did not know how. I did so with the assistants, according to law.

ANTO. F. CORONEL.

Ass.: JUAN DE DIOS PADILLA,
Ass.: FELIPE VALENZUELA.

This proceeding being concluded and made out on common paper for want of stamped paper, be it returned to the party for the purpose which may suit him. This did the undersigned justice decree, order, and sign, with the assistants, according to law.

ANTONIO F. CORONEL.

Ass.: JUAN DE DIOS PADILLA,
Ass.: FELIPE VALENZUELA.

Postscriptum.—It was delivered to him, consisting of six filled folios.

I, José Antonio Carrillo, resident in the city of Los Angeles, in Upper California, certify, in as far as it may be to the purpose, that in the year 1828, being constitutional alcalde of said city, and commissioned to the justices court of the 1st instance, I received a complaint from the right reverend fathers, the ministers of the mission of San Buenaventura, complaining of D. Rafael Pico, owner of the rancho de Simi, for slaughtering black cattle that he did on lands belonging to said mission. That, to remedy this abuse, I charged the county justice, D. Antonio Ma. Lugo, that he, with three honorable citizens, should proceed to a recognizance of those lands, and give notice to the justice court of what he might advise as to the complaint, causing Don Pico to prove that he did the indicated killing within his lands, on the rancho de Simi. The result of the whole affair was, that the often named Mr. Pico did show that the boundaries of his rancho, in the direction disputed about, consisted from the oak to El Queso, south course, directly to the source of the agua de la Tierra Rajada, and from hence to the hills bordering on the rancho del Conejo. In this understanding the justices court acted as seemed best in the matter; and on request of D. José Ruiz, owner of the rancho de Cayeguas, I give these presents in the city of Los Angeles, on the 10th of July, 1843.

JOSE ANTONIO CARRILLO.

Filed in office, Jan'y 14, 1854.

GEO. FISHER, *Sec'y*.

GABRIEL RUIZ, and others,
vs.
THE UNITED STATES.

For the place called "Calleguas," containing about one square league of land in Santa Barbara county.

The petitioners claim the property in question as the heirs at law of José Pedro Ruiz, deceased. They have introduced in proof a traced copy of the espediente on file among the archives, which shows that said José Pedro Ruiz petitioned for a grant of the land on the 20th day of April, 1837, and after obtaining the necessary information on the subject, Governor Alvarado made the grant on the 10th day of May, 1837, subject to the approval of the territorial deputation. This approval appears, by a certificate filed in the case, to have been given on the 20th day of the same month; and there is also evidence that

juridical possession of the was given to said grantee on the 14th day of November, 1839.

The land granted is described in the documents by metes and bounds, and the record of the juridical survey shows that the quantity measured was less than one square league. By the terms of the grant the grantee was authorized to devote the premises to such cultivation and use as might best suit him, and no conditions as to the time of building a house or residing on the land were imposed. The testimony shows, that the grantee occupied the land with his family soon after the grant, and so continued until his death, which occurred about the year 1850; and that his family has continued to occupy it until the present time. That he planted a vineyard and cultivated a portion of the land, and had his stock upon it. The evidence on this subject seems sufficient to show a compliance, in this respect, with the terms of the law on the subject, and, I think, the heirs of said grantee entitled to retain the land. A question of much importance arises in this case in relation to the confirmation of land where the grantee has deceased, and his heirs cannot all be ascertained, or are not all individually represented before the commission. In the case before us the petition is filed by Gabriel Ruiz, one of the sons of the grantee, and it is not very clear, from its language, whether he intends to ask for a confirmation of his own individual interest in the premises, or to solicit, on behalf of the other heirs in conjunction with himself, a confirmation of the whole premises to all who are legally entitled to an interest therein. The petition names numerous heirs and their relationship to the deceased, and they are therein represented as claimants of the premises of which the deceased died seized, and the prayer of the petition is for such action as the justice and nature of the claim may require. From a view of the whole document, I am inclined to regard it as a petition intended to solicit a confirmation of the entire premises to the several persons named in it as the heirs who are entitled to share the property. It is not very certain whether all the persons who are entitled to inherit the property of the deceased, and named, either in the petition, or in the proofs, nor is there any showing as to the precise interest which some of the more remote relatives of the deceased inherited. Cases of such inheritance must always present difficulties in ascertaining and determining the rights of parties. We can never know whether all of the parties in interest are before us. It may not be possible to ascertain the names of all the heirs. They may be too widely scattered over the earth, ever to be able to appear before the board, and they may not ever know of the adjudication before us. They may be incapacitated from attending to the business, or may be impressed with the belief, that a confirmation of the estate held by their common ancestor, on the the request of one heir, must necessarily inure to the benefit of all. It may be, and often is, a complicated and difficult question to determine the interest of claimants to an inheritance, among numerous descendants who hold in unequal shares, and whose rights may require a careful investigation and strict scrutiny. Such questions seem to be-

long, rather, to the judicial tribunals of the country, than to a commission organized like this, and to those tribunals they should if possible be committed.

On a careful consideration of the question we have concluded, in such cases, that the most judicious method will be in the confirmation to use the name only of one of the heirs, and to confirm the land to him and the other heirs at law of the deceased. The validity of a grant or deed made to the heirs at law without naming them in such case cannot, I think, be a subject of doubt. The rule is thus laid down in 2 Hilliard on Real Property, 334: "A grant to the heirs of one deceased is good. The parties who are to take may be ascertained by extrinsic evidence. But a conveyance to the heirs of one living is void." The same rule is laid down in 4 Greenl., cause 262; in Shaw & al. vs. Loud, 12 Mass. R. 447; Hall vs. Leonard, 1 Peck R.; and in the Supreme Court of the United States, an entry under a land warrant in Kentucky in the name of John Floyd's heirs was held good. Hunt vs. Wickliffe, 2 Pet. R. 201. See also Bac. Ab., Grant C.; Com. Dig., Grant B; Perkins, S. 52; Sargent vs. Simpson, 8 Greenl. R. 148, and Delauny vs. Burritt, 4 Gilor R. (Illi.) 454.

By making the confirmation in this manner all the difficulties above indicated will be avoided, the rights of absent parties will be secured and the individual will be at liberty, before another tribunal, to obtain an adjudication on any questions which may arise as to their respective rights in the inheritance.

This claim is confirmed, and the decree will be entered in the manner above indicated.

GABRIEL RUIZ and al.
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission, that the claim of the said Gabriel, and that of the other heirs at law of José Pedro Ruiz, the original grantee of the land, now deceased, is valid, and it is therefore hereby decreed that the same be confirmed to the said Gabriel Ruiz and the other heirs at law of said José Pedro Ruiz, deceased; the land hereby confirmed is known by the name of "Calleguas," is situated in the county of Santa Barbara, and is the same occupied by the said confirmees, and is bounded and described as follows, to wit: situated within the tract of land which extends from the boundaries of Simi, El Conejo, Guadalasa, Posas, and San Buenaventura, and more particularly described in its boundaries as follows: beginning at the edge of the hills, where three elms stand alone, and running thence three-fourths of a league, to a stake at the foot of the spur of Las Posas, which was driven there as a landmark, where the juridical possession of said land was given to said José Pedro Ruiz, thence over a spur eastwardly one and a quarter league to the top of a hill close to the split ground (Tierra Rajada;) thence southwardly, cutting across the Cañada of Santa Rosa, one quarter of a league, to

the top of a hill at a stake which was driven as a landmark, where said juridical possession was given; and thence westwardly along the edge of some hills, one and a half league to the place of beginning; reference for more particular description to be had to the grant of the same, the records of juridical possession, and the map which is made a part of the same, together with the map attached to the copy of the espediente, all of which are on file in this case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, November, 4th, 1853.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing fifty pages, numbered from 1 to 50, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 430 on the docket of the said board, wherein Gabriel Ruiz et al. are the claimants against the United States, for the place known by the name of "Calleguas."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [G. F.] California, this twenty-second day of August, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing pages, numbered from 1 to , both inclusive, contain a full, true, and correct copy of transcript No. 430, filed in this office, wherein Gabriel Ruiz et al. are appellees, and the United States appellants, for "Calleguas."

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at the city of Los Angeles, this [SEAL.] 17th day of March, A. D. 1856, and of the independence of the United States of America the eightieth.

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

GABRIEL RUIZ et al., appellees, ads. THE UNITED STATES, appellants. } No. 60.—(Transcript No. 430.)

Be it remembered, that on the day of , A. D. 185 , in the district court of the United States for the southern district of California, the following proceedings were had, to wit: a certified transcript of the proceedings of the commission to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Gabriel Ruiz et al. are the claimants against the United States, for the place named the "Calleguas," was filed and docketed with No. 45, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *Dec.* 5, 1854.

In same case, notice of appeal from decision of commission filed.

(Vide page 3.)

LOS ANGELES, *Jan'y 5th*, 1855.

In same case, petition for review filed by U. S. dis't att'y.

(Vide page 3.)

LOS ANGELES, *April 16th*, 1855.

In same case, answer of claimants filed.

(Vide page 10.)

LOS ANGELES, *June 13th*, 1855.

In same case, motion to take further testimony filed.

(Vide page 13.)

LOS ANGELES, *Octo. 11th*, 1855.

In same case, motion to take further testimony filed.

(Vide page 13.)

LOS ANGELES, *March 7th*, 1856.

In same case, decree of the court confirming the claim filed.

(Vide page 15.)

LOS ANGELES, *March 7th*, 1856.

In same case, notice of appeal to Supreme Court filed.

(Vide page 16.)

Notice of Appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, 26*th October*, 1854.

GABRIEL RUIZ et al.
vs.
THE UNITED STATES. } 430.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 26th day of July, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

(Sgd.) C. CUSHING,
Attorney General.

Filed Dec'r 5th, 1854.
(Sgd.) C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California, Los Angeles county.

Petition of Att'y of U. S. for review, &c.

GABRIEL RUIZ et al.
vs.
THE UNITED STATES. } No. 430.

To the honorable Isaac S. K. Ogier, Judge of the District Court of the United States for the southern district of California:

The petition of Pacificus Ord, (of Monterey county,) attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 1st day of November, A. D. 1852, Gabriel Ruiz presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called Calleguas, containing one square league, more or less, in the county of Santa Barbara, in the words and figures following, to wit: "The petition of Gabriel Ruiz respectfully showeth, that he and other heirs of José Pedro Ruiz, deceased, whose names are hereinafter specified, are claimants of and for the tract of land and rancho known by the name of Calleguas, situated in the county of Santa Barbara, in the State of California, bounded by the ranchos of Las Posas, Conejo, Simi, and the limits of the "establishment" of San Buenaventura, such as they were at the date of the original grant for said Calleguas. And for a more particular description of said rancho, and the quantity of land it contains, your petitioner refers to the plan or map, and the metes and bounds assigned

in the minute-roll of juridical possession thereof, copies of which are herewith filed. That the said rancho was granted to said José Ruiz, on or about the 10th of May, 1837, by Juan B. Alvarado, then governor of California, by virtue of the laws and regulations then in force, and the customs of the country affecting grants of land in California. That the said grant to Pedro Ruiz was, on the 20th of May, 1837, approved by the deputation or assembly. That on or about the 9th of November, 1839, said Pedro Ruiz petitioned the proper judicial officer to give him possession of said land, and that juridical possession was accordingly given, as by reference to the minutes of proceedings thereon, copies of which was herewith filed, will more fully appear. That in or about the month of February, 1849, the said José Ruiz departed this life without leaving any will or testament that was ever admitted to probate, and without making any testamentary or other disposition of the said rancho Calleguas, and that he left him surviving Maria Ignacio Lugo de Ruiz, his sons Carlos Ruiz, Gabriel Ruiz, your petitioner, Geronimo Ruiz, José Antonio Ruiz, Baltasa Ruiz, Ilareon Ruiz, and José Antonio Ruiz, and his daughters Bernardo Ruiz, Alcona Ruiz, Caledonia Ruiz, and Diagracia; the following of his deceased daughter Petra Ruiz, viz., Guadalupe, Soledad and José Arellares; the following issue of his deceased daughter Presentacion, viz., Maria Los Angeles, and Chepeta Pico, which last mentioned Chepeta has since died, leaving her husband, Ignacio Esquirra, and two daughters, the issue of her marriage with him, viz., Josefa and Blandina.

"And your petitioner further shows, that since the death of the said José Pedro Ruiz, the said Diagracia, one of his daughters above mentioned, died intestate, seized of her proportional undivided interest in said rancho, and left her surviving her husband Esteban Ortega, and the following issue of her marriage, viz: Francisca José Dolores Refugio, Prudencia, Maria de los Angeles, José Ramon, José del Carmen, Sebastian Ortega.

"Your petitioner further shows, that the said rancho has never been divided or partitioned among the said several heirs of José Pedro Ruiz, and that the same is still and possessed in common by the said widow and the other heirs at law of said José Pedro Ruiz, whose names are above specified, proportionably and according to the laws regulating descents and distributions of real estate in California.

"And your petitioner further shows, that the said rancho of Calleguas has been in actual and peaceable possession of the said José Pedro Ruiz and his said heirs, from the date of said grant to the present time; that it has not been surveyed by the U. S. surveyor general for California, and that there is no conflicting claim thereto known to your petitioner. The evidence on which your petitioner relies, consists of the records of this grant in the office of the surveyor general, certified copies of which your petitioner prays leave to file as part of this petition, as soon as the same can be procured, original papers and maps in the possession of your petitioner, ready to be produced and proved, and

of which copies are herewith filed as parts of this petition, and the testimony of witnesses to be produced before your honorable board. Respectfully submitted for such action as the justice and nature of the claim may require."

Your petitioner further represents, that thereafter, to wit, on the 4th day of November, A. D. 1853, the said commissioners confirmed by final decree the said claim of the said Gabriel Ruiz et al., in the words and figures following, to wit:

"GABRIEL RUIZ et al.
vs.
THE UNITED STATES.

"In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said Gabriel, and the other heirs at law of José Pedro Ruiz, the original grantee of the land, now deceased, is valid; and it is therefore hereby decreed that the same be confirmed to the said Gabriel Ruiz and the other heirs at law of said José Pedro Ruiz, deceased. The land hereby confirmed is known by the name of "Calleguas," is situated in the county of Santa Barbara, and is the same occupied by the said confirmees, and is bounded and described as follows, to wit: Situated within the tract of land which extends from the boundaries of Simi El Conejo Guadalosa, Pasas and San Buenaventura, and more particularly described in its boundaries as follows: Beginning at the edge of the hills, where three elms stand alone, and running thence three-fourths of a league to a stake at the foot of the spur of Las Posas, which was driven there as a landmark when the juridical possession of said land was given to said José Pedro Ruiz; thence over a spur eastwardly one and a quarter leagues to the top of a hill close to the split ground, (tierra rajada;) thence southwardly, cutting across the cañada of Santa Rosa one-quarter of a league to the top of a hill, at a stake which was driven as a landmark when said juridical possession was given; and thence westwardly along the edge of some hills one and a half leagues to the place of beginning; reference for a more particular description to be had to the grant of the same, the records of juridical possession and the map which is made a part of the same, together with the map attached to the copy of the espediente, all of which are on file in this case.

"ALPHEUS FELCH,
"THOMPSON CAMPBELL,
"R. AUG. THOMPSON,
"*Commissioners.*"

Filed in office, November 4th, 1853.

GEORGE FISHER, *Sec'y.*

That thereafter, to wit, on the 30th day of August, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States for

the southern district of California, and marked No. 430, reference to which it is prayed may be had and made a part of this petition.

That on the 26th day of July, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said cause, (No. 430,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 5th day of December, A. D. 1854, the said Attorney General of the United States filed, or caused to be filed, on behalf of the United States, a notice with the said clerk of said district court for the southern district of California, that the appeal in said cause of Gabriel Ruiz et al. vs. The United States, from the decision of the said commissioners to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land claimed as aforesaid is within the jurisdiction of this honorable court.

And your petitioner further represents and insists, that the said decree of said commissioners is erroneous and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now on appeal from said commissioners to this honorable court.

And your petitioner further represents, that the said claim is invalid, and the said decree erroneous, on the following grounds:

1. That the said Gabriel Ruiz et al. show no valid title to the said land claimed by them as aforesaid, and it is denied that they have any.

2. That the said alleged grant of Governor Alvarado was made in violation of the 4th article of the colonization law of Mexico, of the 18th of August, A. D. 1824, in this, that the land granted, as alleged by claimant, was and is within ten leagues of the sea-coast; and there is no evidence by claimant that the supreme general executive power of Mexico previously approved of the colonization of the lands of California within ten leagues of the sea-coast; and it is denied that such previous consent of said supreme general executive power of Mexico in such case was ever had.

3. That at the date of the said alleged grant, the said land claimed as aforesaid was occupied by, and in the possession of, the missions of California, and particularly by the mission of San Buenaventura, and could not therefore be colonized.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the law of Mexico, of the 18th of August, A. D. 1824, and the regulations for the colonization of the territories of Mexico, of the 21st of November, A. D. 1828.

5. That the alleged grant of Governor Juan B. Alvarado is not on stamped paper; it contains no certain description of the land alleged to have been granted; and there is no certain quantity or extent of land specified therein; and said grant is void for uncertainty; and said

alleged grant has not the condition designating a proportionate time within which the grantee should cultivate or occupy the land, as required by law; that the said Alvarado had no lawful power on the 10th of May, A. D. 1837, to grant the land claimed as aforesaid.

6. That the signature of Victor Prudon, appearing upon the said alleged original grant of said governor, of said date, is not proved to be genuine; that the signatures of Victor Prudon, Antonio Buelva, and José Ramon Estrada, appearing upon the document dated May the 18th, A. D. 1837, purporting to be a certificate of the approval of the said grant by the deputation of California, are not proved to be genuine; and the genuineness of these said signatures to said documents are denied.

7. That the alleged act of juridical possession and survey of Antonio Rodrigues, justice of Santa Barbara, dated on or about the 13th of November, A. D. 1839, was not made according to the said alleged grant and the map referred to therein; that it is vague, indefinite and uncertain; that there is no evidence that the said Antonio Rodriguez was justice of Santa Barbara on the day of the date of said alleged act of juridicial possession and survey of said land, and that he had lawful authority to make said juridical possession and survey; and it is denied that he was such justice at said time, and had lawful authority to perform said alleged juridical act.

8. That there is no evidence that the said alleged grantee built a house on the said land within a year from the date of said grant, or within a reasonable time, and that it was occupied by him; and it is denied that said alleged grantee built a house on the said land within a year from the date of said grant, and that it was occupied by him.

9. That it appears by the said petition of said Gabriel Ruiz, that all the alleged heirs of said alleged grantee are not parties claimants of said land.

10. That the said petitioner, Gabriel Ruiz, does not show with certainty what his alleged undivided interest is as heir to said land, alleged to have been granted as aforesaid; and no proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or granted thereon, but the said petition ought to have been dismissed and said claim rejected by said commissioners upon the grounds aforesaid.

Wherefore the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the prémises and the laws and statutes in such case made and provided, prays that the said Gabriel Ruiz et al., or his attorney, may be served with a copy of this petition, and that this honorable court will review the said decision or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Gabriel Ruiz et al. for said land claimed and confirmed as aforesaid, and that

the same may be decreed invalid; and all such other orders, judgments or decrees as may be just, with costs and general relief.

(Signed) P. ORD,
Att'y of the U. S. for the southern district of Cal'a.

Filed Jan'y 5th, 1855.
(Signed) C. E. CARR, *Cl'k.*

In the District Court of the U. S. for the southern district of Cal'a.

GABRIEL RUIZ et al., appellees, ads. THE UNITED STATES, appellants. } No. 430.

Answer of Appellees.

The answer of Gabriel Ruiz and others, heirs of José Pedro Ruiz, deceased, (whose names are hereinafter specified,) to the petition of Pacificus Ord, attorney of the United States for the southern district of California, in behalf of the United States, respectfully showeth:

That on or about the first day of November, A. D. 1852, the said Gabriel Ruiz, (on behalf of himself and the other heirs of the said José Pedro Ruiz, deceased,) presented a petition to the board of land commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called "Calleguas," containing one square league of land, more or less, in the county of Santa Barbara, and within the jurisdiction of this court, and bounded and described as set forth in the said petition, and the act of judicial possession and the plan or map accompanying the same, copies of which are contained in the transcript on file in this case and made a part of this answer; and the said appellees further answering say, that the said rancho or tract of land was originally granted to the said José Pedro Ruiz, on or about the 10th day of May, A. D. 1837, by Juan B. Alvarado, then governor, &c., of the department of the Californias, by virtue of authority in him vested, and according to the laws, usages and customs of the Mexican republic; and that on the 20th day of May, A. D. 1837, the said grant was duly approved by the departmental assembly of the then territory of California, as will more fully appear by reference to the original grant and approval of the departmental assembly, copies of which are contained in the transcript on file in this case, and made a part of this answer.

That on or about the 13th day of November, A. D. 1839, judicial possession of the said tract of land was duly given to the said José Pedro Ruiz, by Antonio Rodriguez, a justice of Santa Barbara, and duly authorized to give said possession. That in or about the month of February, A. D. 1849, the said José Pedro Ruiz died intestate, leaving him surviving *and* his heirs at law, Maria Ygnacio Lugo de Ruiz, his widow, his sons Carlos Ruiz, Gabriel Ruiz, the said petitioner, José Antonio Ruiz, Baltazar Ruiz, Ilarean Ruiz and José Antonio Ruiz, and his daughters Bernarda Ruiz, Alcona Ruiz, Caledonia Ruiz, and Diagracia Ruiz, and the following issue of his deceased daughter

Petra Ruiz, married to one Arelares, viz: Guadalupe, Soledad and José Arelares, and the following issue of his deceased daughter Presentacion Ruiz, married to one Pico, viz: Maria de Los Angeles and Chepeta Pico, which last mentioned Chepeta has since died, leaving her surviving her husband Ygnacio Esquierra, and two daughters, the issue of her marriage with him, viz: Josefa and Blandina. And that since the death of the said José Pedro Ruiz the said Diagracia, one of his daughters above mentioned, died intestate, seized of her proportional undivided share or interest in said rancho, and left her surviving her husband Esteban Ortega, and the following issue of her marriage with him, viz: Francisca, José Dolores, Refugio, Prudencia, Maria de Los Angeles, José Ramon, José del Carmem and Sebastin Ortega. That the said rancho or tract of land has never been divided or partitioned among the said several heirs of José Pedro Ruiz, and that the same is still occupied and possessed in common by the said widow and the other heirs at law of the said José Pedro Ruiz, whose names are above specified.

That the said José Pedro Ruiz has been and continued in the actual and peaceable possession of the said rancho from the date of said grant, up to and until the time of his death as aforesaid, and complied with and fulfilled all the conditions of the said grant; and that since his said death his said heirs above mentioned have peaceably occupied and possessed the same, and still continue to occupy and possess the same as heirs at law of the said José Pedro Ruiz.

That on or about the 4th day of November, A. D. 1853, the said commissioners by final decree confirmed the said title to the said rancho to the said Gabriel Ruiz, and the other heirs at law of the said José Pedro Ruiz, deceased.

And the said appellees further answering deny all and singular the allegations and objections of the said district attorney against the validity of said claim, and insist that they have a good and valid claim and title to the said land, and that the decision of the said commissioners ought to be affirmed by this court. Wherefore they pray that this honorable court will affirm the decision of the said commissioners, and decree that the said appellees have a good and valid title to the said land, and for general relief.

(Signed) MYRON NORTON,
Att'y for Appellees.

And the said appellees further answering admit, that the said tract of land lies in the southern district of California, and within the jurisdiction of this court; and that the transcript and notice of intention to prosecute the appeal in this case were duly filed as alleged in the said petition for review.

(Signed) MYRON NORTON,
Att'y for Appellees.

Filed April 16th, 1855.
(Sgd.) C. E. CARR, *Cl'k.*

Motion to take Testimony.

GABRIEL RUIZ et al., appellees, ads. THE UNITED STATES, appellant. } No. 60.

District Court of the United States for the southern district of California.

Issue joined April 16th, 1855.

And now, at this day, comes the said appellees, by Myron Norton, their attorney, and moves the court that an order be entered in this case to take further testimony therein, to be used on the final hearing of this case, under the rules and practice of this court.

(Sgd.) MYRON NORTON,
Att'y for Appellees.

Filed June 13th, 1855.
(Sgd.) C. E. CARR, *Clerk.*

Notice of hearing by U. States.

In the District Court of the United States for the southern district of California.

GABRIEL RUIZ et al. vs. THE UNITED STATES. } No. 60.—(Transcript No. 430.)

To Gabriel Ruiz et al., or their Attorneys:

Take notice that the above entitled cause will be brought to a hearing by the United States on the 19th day of October, A. D. 1855, or as soon thereafter as the same can be heard by the court.

Los Angeles, October 11th, 1855.
(Sgd.) P. ORD,
U. S. Dist. Att'y.

Filed October 11th, 1855.
(Sgd.) C. E. CARR, *Clerk.*

UNITED STATES DISTRICT COURT,
Southern district of California.

GABRIEL RUIZ, appellee, ads. THE UNITED STATES, appellants. } No. 60.—For the place called "Calleguas."

This cause coming on to be heard, on an appeal from the decision of the commissioners to ascertain and settle the private land claims in the State of California, under the act of Congress approved March 3d, 1851, upon the transcript of the proceedings and decision, and the papers and evidence on which said decision was founded, and it appearing that said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, ad-

judged and decreed, that the decision of the commissioners be and the same is hereby affirmed; and it is further ordered, adjudged and decreed, that the claim of the said appellee above mentioned is good and valid, and the same is confirmed to him and the other lawful heirs of José Pedro Ruiz, to the extent called for in the grant and map to which the grant refers, and more fully described in the act of judicial possession, as follows, to wit: beginning at the edge of the hills where three elms stand alone; thence three-quarters of a league to the foot of the spur of Las Posas; thence over a spur eastwardly one league and a quarter to the top of a hill close to the split ground (tierra rajada); thence southwardly, cutting the cañada of S'ta Rosa, a quarter of a league to the top of a hill where a stake was driven as a landmark; thence westwardly along the edge of same hills one and a half leagues to the place of beginning.

(Sgd.) ISAAC S. K. OGIER,
U. S. Dist. Judge.

Filed March 7th, 1856.
(Sgd.) C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'y.*

Notice of Appeal.

In the District Court of the United States for the southern district of California.—Los Angeles, December Term, 1855.

GABRIEL RUIZ et al., appellees,
vs.
THE UNITED STATES, appellant. } No. 60.—(No. 430 of Transcript.)

On appeal from the United States Land Commission.

On motion of P. Ord, attorney of the United States for the southern district of California, it is hereby ordered by the court that an appeal be granted the United States from the judgment in this court against the said United States in the above entitled cause, rendered on or about the 3d day of December, A. D. 1855.

(Sgd.) P. ORD, *Dist. Att'y.*
Filed March 7th, 1856.
(Sgd.) C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.
CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing sixteen pages, numbered from 1 to 16, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decison of the said court, of the documentary evidence, and of the testimony of witnesses upon which the same is founded, on file in